IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8474 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANEKLAL JETHALAL LIBRARY

Versus

DILIPSINH BALUSINH RATHOD

Appearance:

MR HS MUNSHAW for Petitioner

MR DS VASAVADA for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 05/12/2000

ORAL JUDGEMENT

The matter is already admitted. By consent of the parties, the matter is taken up for final hearing today.

The dispute is about non-payment of salary for the period between 1.1.1994 and 30.1.1996. According to Mr.Munshaw, the petitioner has already been reinstated in service with effect from 30.1.1996. However, according to Mr.Vasavada, even though the order for taking him back in service was passed as back as on 28.12.1995, for one month, he was not taken back in service by the Department. According to him, he is also entitled to back wages from 1.1.1994 to 29.1.1996, practically for a period of about two years. It is submitted by Mr.Munshaw that as per the policy of the Library, as and when work is not available, the services of such Peons, who are serving on temporary basis, were required to be terminated. However, since he has already been taken back in service, that question is not of much importance. In view of the facts and circumstances of the case, so far as the order of reinstatement and continuity of service is concerned, the same is not required to be interfered with. However, so far as back wages are concerned, the respondent would be entitled to 50% of the back wages for the period in question because for two years, he had not worked. In the facts and circumstances of the case, it is just and proper to reduce the back wages to 50% for the period in question. Subject to the said modification, the petition is partly allowed. Rule is made absolute to the aforesaid extent. No costs.

The amount of wages required to be paid is to be paid on or before 15th January, 2001.

5th December, 2000 (P.B. Majmudar, J.)

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(apj)